THE HON'BLE SRI JUSTICE C.V. RAMULU

+ W.P.No.21423 of 2006

%Dated 08-3-2007

Between:

B. Rami Reddy

..... Petitioner

and

….. Respondents

!Counsel for the petitioner : SHRI M. SIVA PRASAD

^Counsel for Respondent No.1: SHRI G. ARUN KUMAR
Counsel for Respondent No.2: GOVT.PLEADER FOR COOPERATION

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? Cases referred

THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, 8th day of March,2007

W.P.No.21423 of 2006

Between:-

B. Rami Reddy … Petitioner

and

The Primary Agricultural
Cooperative Credit Society
Limited, represented by its
President, Suryapet, Suryapet
Mandal, Nalgonda District and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.21423 of 2006

ORDER:

The short question that falls for consideration in this Writ Petition is whether the petitioner is entitled for the benefit of special bye-laws recommended by the Commissioner and Registrar of Cooperative Societies and adopted by the society on 30-4-2006, as to payment of gratuity ?

It appears, petitioner worked as Secretary of Primary Agricultural Cooperative Credit Society Limited, Suryapet, Suryapet Mandal, Nalgonda District. On attaining the age of superannuation, he retired from service on 30-4-2006. He is governed by the service rules made under Rule 72(3) of the A.P. Cooperative Societies Rules,1964 (for short 'the Rules'). The Registrar of Cooperative Societies is the competent authority for making the rules/regulations governing the service conditions of the Secretaries of the Primary Agricultural Cooperative Societies, which shall be adopted by the cooperative societies. It appears, as per bye-law No.9 of the Special bye-laws, an employee is eligible to get 15 days of pay towards gratuity as per the Gratuity Act for every completed year of service, with a maximum of Rs.1.00 lakh and the Managing Committee may sanction the gratuity to

the employee of the society. On retirement of the petitioner, he was not paid any amount towards gratuity and the earned leave. Therefore, this Writ Petition.

It is the contention of the respondents that the special bye-laws were adopted by the society in the meetings held on 26-3-2006/ 30-4-2006 and they will come into force with effect from the date on which they were registered with the Registrar of Cooperative Societies as per Section 16(1) of the A.P. Cooperative Societies Act i.e. 12-6-2006. With regard to encashment of earned leave on retirement, there is no such provision in the special bye-laws. Therefore, the petitioner is not entitled for gratuity or for encashment of earned leave etc.

Before going into the merits, it is relevant to refer Section 16(1) of the Act, which reads as under:

> "**16. Amendment of bye-laws of a society:--**
>
> (1) No amendment of any bye-law of a society shall be valid unless the resolution for such amendment is passed at its General meeting by a majority of the total members and such amendment has been registered under this Act. Where such an amendment is not expressed to come into operation on a particular day, then it shall come into force on the day on which it is registered.
>
> (2) to (5)……"

The said provision contemplates that any amendment made to the bye-laws of the society shall come into force on the date on which it is registered. Whereas, the special bye-laws are made by the Registrar under Rule 72(3) of the Rules. Under Rule 10 of the Rules, the procedure for amendment of the bye-laws is contemplated. Especially, under Rule 11, the procedure for direction by the Registrar for amendment of the bye-laws is provided and the said Rule reads as under:

> "**11. Procedure for direction by Registrar for amendment of bye-laws:-**

(1) Where it appears to the Registrar than at an amendment of the bye-laws of a society, he shall indicate the reasons therefor, and issue a notice calling upon the committee of such society to convene a general meeting to consider such amendment.

(2) The notice referred to in sub-rule (1) shall specify:-

(a)…….

(b)……..

(3) ……..”

From the above, it is clear that if it appears to the Registrar that an amendment of the bye-laws is necessary, he shall indicate reasons for the same and issue notice calling upon the committee of the society to convene a general body meeting to consider the amendment. But these are special bye-laws made by the Registrar under Rule 72(3)(b) read with Rule 28(5) of the Rules. Nowhere, it is stated that these special bye-laws framed by the Registrar and asking the societies to amend their bye-laws requires registration and that they shall come into force from a particular date. In this case, admittedly, the Commissioner and Registrar of Cooperative Societies, Hyderabad addressed a letter dated 3-10-2005 to all the District Cooperative Officers in the State stating that a 3-member committee was constituted for the purpose of framing bye-laws relating to service conditions of the employees of Primary Agricultural Cooperative Societies and the said committee submitted its report and having examined the draft bye-laws, they have been approved and advised for adoption by the societies. Further, the District Cooperative Officers were requested to see that the service conditions are adopted by the societies at the earliest possible and report compliance. Thus, what it requires under Rule 11 is adoption of the special bye-laws framed by the Registrar of Cooperative Societies as per Rule 72(3)(b), which reads ad under:

“**72. Guidelines to allot Decaderised Secretaries to the Societies:-**

(3) (a)…….

(b) The service conditions of the Secretaries working in the societies shall be governed by such service regulations as may be framed by the Registrar for adoption by the Societies."

There is no necessity of further registration of such bye-laws by the Registrar of Cooperative Societies. In this case, the Registrar framed the bye-laws on 3-10-2005 and the general body of society has resolved to adopt the special bye-laws in its meeting held on 26-3-2006. Further, in the Managing Committee meeting held on 30-4-2006, it was also resolved for payment of gratuity and benefits of leave and other allowances to the employees, who retired from the Society, as per special bye-laws dated 3-10-2005. Further, it is interesting to notice that Bye-law No.2 of the special bye-laws would indicate as to commencement and application of the bye-laws. It says that the service regulations shall come into force from the date of adoption by the society and they shall be applicable to every permanent employee of the society. As stated above, the special bye-laws as communicated through the letter dated 3-10-2005 of the Commissioner and Registrar of Cooperative Societies were adopted in the general body meeting of the society held on 26-3-2006. Therefore, it must be deemed that those service conditions i.e. Rules made under Rule 72(3)(b) of the Rules have come into force from 26-3-2006, if not from 3-10-2005. Petitioner, admittedly, on attaining the age of superannuation, retired from service on 30-4-2006. Therefore, it cannot be said that the special bye-laws, which were adopted by the society on 26-3-2006/30-4-2006 have no application to the case of the petitioner, since they would come into force from the date of registration and, therefore, he is not entitled for gratuity as per bye-law No.9 of the special bye-laws. The special bye-laws are

proposed by the Registrar and adopted by the societies. Therefore, further registration of the special bye-laws by the Registrar does not arise. As soon as they are adopted by the society, they come into force. The petitioner is entitled for all the benefits under special bye-laws adopted by the society including the gratuity. Insofar as other benefits like encashment of earned leave etc., are concerned, the petitioner may be paid the same as per his eligibility.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

08-3-2007

prk

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